

## SENATE BILL No. 366

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### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 5-2-14.

**Synopsis:** Public safety due process. Specifies due process provisions for a police officer or firefighter who is the subject of a formal complaint or an internal investigation.

**Effective:** July 1, 2004.

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January 12, 2004, read first time and referred to Committee on Pensions and Labor.

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Introduced

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

## SENATE BILL No. 366

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 5-2-14 IS ADDED TO THE INDIANA CODE AS  
2       A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
3       1, 2004]:

4       **Chapter 14. Due Process Provisions for Law Enforcement**  
5       **Officers and Firefighters**

6       **Sec. 1. As used in this chapter, "employer" means a:**

- 7               (1) law enforcement agency; or  
8               (2) fire department;

9       **that employs a public safety officer.**

10       **Sec. 2. As used in this chapter, "internal investigation" means**  
11       **an investigation that:**

- 12               (1) is conducted by an employer;  
13               (2) concerns the conduct or activities of a public safety officer;  
14               (3) is based on information or accusations provided to the  
15               employer; and  
16               (4) is conducted to determine whether the public safety officer  
17               violated a:

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1 (A) rule of the employer; or

2 (B) criminal or civil law.

3 Sec. 3. As used in this chapter, "investigator" means a person  
4 who is designated by an employer to investigate:

5 (1) a formal complaint filed against a public safety officer; or

6 (2) allegations or information that forms the basis of an  
7 internal investigation.

8 Sec. 4. As used in this chapter, "law enforcement agency" means  
9 an agency or a department of any level of government whose  
10 principal function is the apprehension of criminal offenders.

11 Sec. 5. As used in this chapter, "public safety officer" means  
12 either of the following:

13 (1) A law enforcement officer (as defined in IC 5-2-1-2).

14 (2) A full-time, fully paid firefighter.

15 Sec. 6. A public safety officer is required to appear before an  
16 investigator for interrogation only after:

17 (1) a person has filed a formal complaint against the public  
18 safety officer or an employer has initiated an internal  
19 investigation against the public safety officer; and

20 (2) the employer has notified the public safety officer of the  
21 formal complaint or internal investigation.

22 Sec. 7. A formal complaint must:

23 (1) be in writing;

24 (2) be signed and sworn to by the person who makes the  
25 allegation against the public safety officer; and

26 (3) set forth a concise statement of the facts of the occurrence  
27 upon which the formal complaint is based, including the:

28 (A) date;

29 (B) time; and

30 (C) location;

31 of the occurrence.

32 Sec. 8. An employer may conduct an internal investigation based  
33 on a formal complaint without requiring the person who filed the  
34 complaint to reveal the person's identity.

35 Sec. 9. At a reasonable time before an interrogation of a public  
36 safety officer, an employer shall give the public safety officer the  
37 following:

38 (1) A copy of the formal complaint filed against the public  
39 safety officer.

40 (2) Any statements by persons accusing the public safety  
41 officer of conduct or activities that form the basis of the  
42 formal complaint or internal investigation.

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1       **Sec. 10. Before an interrogation of a public safety officer may**  
 2 **begin, an employer must inform the public safety officer both**  
 3 **orally and in writing that:**

4       **(1) the public safety officer may refuse to be interrogated, but**  
 5 **refusal may subject the public safety officer to disciplinary**  
 6 **proceedings; and**

7       **(2) if the public safety officer is ordered to respond to the**  
 8 **interrogation:**

9       **(A) the public safety officer may respond to the**  
 10 **interrogation; and**

11       **(B) any statements made by the public safety officer during**  
 12 **the interrogation may not be used against the public safety**  
 13 **officer in a subsequent criminal proceeding.**

14       **Sec. 11. The interrogation of a public safety officer shall be**  
 15 **conducted at:**

16       **(1) the employer's office; or**

17       **(2) an alternate location agreed upon by the public safety**  
 18 **officer and the investigator.**

19       **Sec. 12. Except as provided in section 13 of this chapter, an**  
 20 **interrogation shall be conducted:**

21       **(1) when the public safety officer is scheduled for duty; or**

22       **(2) at a time agreed upon by the public safety officer and the**  
 23 **investigator.**

24       **Sec. 13. If the interrogation of a public safety officer is based on**  
 25 **an allegation of criminal conduct, the interrogation may be**  
 26 **conducted at any time.**

27       **Sec. 14. If the interrogation of a public safety officer is based on**  
 28 **an allegation of criminal conduct, the investigator conducting the**  
 29 **interrogation shall record the interrogation. Upon the request of**  
 30 **the public safety officer, the investigator shall:**

31       **(1) prepare a transcript of the recording; and**

32       **(2) provide the transcript to the public safety officer at no cost**  
 33 **to the public safety officer.**

34       **Sec. 15. A public safety officer who is interrogated may record**  
 35 **the interrogation.**

36       **Sec. 16. (a) Except as provided in subsection (b), a public safety**  
 37 **officer may have an attorney or another representative of the**  
 38 **public safety officer's choice present during an interrogation of the**  
 39 **public safety officer.**

40       **(b) If the public safety officer delays the interrogation session**  
 41 **for more than twenty-four (24) hours because of the unavailability**  
 42 **of the public safety officer's attorney or chosen representative, the**

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1 public safety officer may be subject to disciplinary proceedings.

2 Sec. 17. An employer may not require a public safety officer to  
3 submit to either of the following tests for the purpose of  
4 determining veracity or for any other purpose:

5 (1) A lie detector test.

6 (2) A psychological stress evaluation.

7 Sec. 18. If a public safety officer voluntarily consents to a test  
8 referred to in section 17 of this chapter, the results of the test may  
9 not be used against the public safety officer in a subsequent  
10 disciplinary proceeding.

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